

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

HAJES RABAIA,

Petitioner,

v.

STATE OF NEW JERSEY, et al.,

Respondents.

HONORABLE JEROME B. SIMANDLE

Civil Action
No. 15-4809 (JBS)

MEMORANDUM OPINION

SIMANDLE, Chief Judge:

Before the Court is Petitioner Hajes Rabaia's second amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket Entry 8).

1. Petitioner, a state-sentenced inmate incarcerated at South Woods State Prison, filed an application for writ of habeas corpus under 28 U.S.C. § 2254, on June 17, 2015. (Docket Entry 1).

2. By Order dated July 13, 2015, this Court administratively terminated the petition for failure to submit the filing fee or a complete application to proceed *in forma pauperis*, as well as for failure to use the form provided by the Clerk for § 2254 petitions. (Docket Entry 2).

3. Petitioner submitted an amended petition for habeas corpus and the filing fee, (Docket Entry 3), and the Clerk

reopened the matter for the Court's consideration on August 11, 2015.

4. Petitioner raised two grounds for relief in his amended petition. The first ground, entitled "ineffective assistance of counsel," merely asserted: "Counsel failed to obtain evidence that would have supported my version of events that happened, Failed to call supporting witnesses." (Docket Entry 3 at 6). The second ground, entitled "Extended term was improperly admitted," read in its entirety: "There was not enough evidence in my record to say I was a repeat offender, the crime at hand was only a second degree." (Docket Entry 3 at 8).

5. By Opinion and Order dated August 31, 2015, this Court dismissed the amended petition pursuant to 28 U.S.C. § 2254 Rules 2 and 4 for failing to plead with particularity the facts supporting his claims of constitutional error. (Docket Entries 4 and 5).

6. The Court granted Petitioner leave to file a second amended petition within 30 days of the date of the Order. (Docket Entry 5).

7. On September 30, 2015, Petitioner requested an extension of time to file his second amended petition due to illness. (Docket Entry 6). The Court granted that request. (Docket Entry 7).

8. Petitioner filed his second amended petition on October 30, 2015. (Docket Entry 8).

9. The second amended petition is not on the form provided by the Clerk's Office for § 2254 petitions, AO 241 (modified), as required by Local Civil Rule 81.2.

10. Additionally, the second amended petition includes what appears to be Petitioner's direct appeal brief as the stated grounds for relief, none of which are ineffective assistance of counsel. (Docket Entry 8 at 7-32).

11. Petitioner must resubmit his § 2254 petition on the form to be provided by the Clerk. This petition must include all of the alleged constitutional errors Petitioner wishes this Court to consider, and Petitioner must sign the portion of the form certifying he has included all available grounds for relief as he may be barred from raising them in a future petition.

12. It also appearing that Petitioner has paid the filing fee twice, (Receipt numbers CAM007075 and CAM007328), the Clerk shall be ordered to refund Petitioner \$5.00.

13. An appropriate Order accompanies this Opinion.

January 12, 2016
Date

s/ Jerome B. Simandle
JEROME B. SIMANDLE
Chief U.S. District Judge